

Robbins Geller Rudman & Dowd LLP

Atlanta
Boca Raton

Chicago
Manhattan

Melville
Nashville

Philadelphia
San Diego

San Francisco
Washington, DC

Paul J. Geller
PGeller@rgrdlaw.com

January 8, 2016

The Honorable Charles R. Breyer
United States District Court
450 Golden Gate Avenue
San Francisco, CA 94102

VIA ECF

Re: *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and
Products Liability Litigation*, MDL No. 2672 CRB (JSC)

Dear Judge Breyer:

I am a Founding Partner of Robbins Geller Rudman & Dowd LLP ("RGRD") and the Managing Partner of its Boca Raton, Florida office. Please accept this letter as my application for a lead counsel or steering committee position. RGRD has over 200 lawyers in 10 offices throughout the country. We limit our practice to the representation of plaintiffs in class and MDL litigation; indeed, our *raison d'être* is to represent the aggrieved against large companies. Our lawyers have recovered more than \$45 billion for consumers, insureds and investors. Below are responses to each inquiry set forth in Pretrial Order No. 2. My resume and a list of counsel supporting my application are attached.

1./2. Professional Experience/Contact Information: Prior to concentrating my practice on the representation of plaintiffs, I worked at Proskauer Rose LLP and Steel Hector & Davis LLP (now Squire Patton Boggs) defending large class actions and MDLs, including *In re Silicone Gel Breast Implants Prods. Liab. Litig.*, before the Honorable Sam C. Pointer, Jr., and *In re Factor VIII or IX Concentrate Blood Prods. Litig.*, before the Honorable John F. Grady. This provided me with an invaluable perspective that I now use in prosecuting such cases. As leaders of the plaintiffs' bar, my firm and I have successfully handled many MDLs and complex class actions, including:

- *In re Massey Energy Co.*, No. 5:10-cv-689 (S.D. W. Va.): Co-Lead Counsel, securing \$265 million recovery in case involving parallel economic loss, personal injury, criminal prosecution and regulatory (MSHA) investigations. Judge Irene C. Berger: (304) 253-2438;
- *In re Nat'l Hockey League Players' Concussion Injury Litig.*, MDL No. 2551 (D. Minn.): Co-Lead Counsel in MDL representing retired NHL players. Judge Susan Richard Nelson: (651) 848-1970;
- *Looper v. FCA US LLC*, No. 5:14-cv-700 (C.D. Cal.): Co-Counsel in design defect class action against Chrysler. Judge Virginia A. Phillips: (951) 328-4461;
- *In re Ford Fusion and C-MAX Fuel Economy Litig.*, MDL No. 2450 (S.D.N.Y.): Co-Lead Counsel in MDL alleging false advertising of fuel efficiency. Judge Kenneth M. Karas: (914) 390-4145;
- *Jaffe v. Household Int'l, Inc.*, No. 1:02-cv-5893 (N.D. Ill.): Lead Counsel, securing \$2.46 billion judgment (**largest ever** post-trial securities class action judgment; remanded on narrow issue, 787 F.3d 408 (7th Cir. 2015)).¹ Judge Ronald A. Guzman: (312) 435-5363;

¹ Large scale securities frauds are often centered on corporate deceptions intended to mask the truth and increase profits, precisely the conduct at issue here. My firm regularly secures recourse for such frauds, including recently recovering \$215 million from HCA (Judge Kevin H. Sharp, M.D. Tenn. (615) 736-2774); \$388 million from J.P. Morgan (Judge J. Paul Oetken, S.D.N.Y. (212) 805-0266); and \$400 million from Pfizer (Judge Alvin K. Hellerstein, S.D.N.Y. (212) 805-0152).

The Honorable Charles R. Breyer
January 8, 2016
Page 2

- *In re UnitedHealth Grp. Inc. Litig.*, No. 0:06-cv-1691 (D. Minn.): Lead Counsel, representing CalPERS in achieving \$925 million class settlement (**largest ever** options backdating recovery). Judge James M. Rosenbaum (ret.);
- *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.*, MDL No. 1720 (E.D.N.Y.): Co-Lead Counsel, securing \$5.7 billion settlement (**largest ever** antitrust settlement; appeal by objectors pending). Judge John Gleeson: (718) 613-2450;
- *Dahl v. Bain Capital Partners, LLC*, No. 1:07-cv-12388 (D. Mass.): Co-Lead Counsel, securing \$590 million settlement (**largest ever** antitrust settlement with no concurrent government action). Judge William G. Young: (617) 748-9156;
- *Luther v. Countrywide Fin. Corp.*, No. 2:12-cv-5125 (C.D. Cal.): Co-Lead Counsel, securing \$500 million settlement (**largest ever** RMBS settlement). Judge Mariana R. Pfaelzer (dec.);
- *Gemelas v. The Dannon Co., Inc.*, No. 1:08-cv-236 (N.D. Ohio): Co-Lead Counsel, securing \$45 million settlement (**largest ever** food label settlement). Judge Dan Aaron Polster: (216) 357-7190;
- *In re Webloyalty.com, Inc. Mktg. and Sales Practices Litig.*, MDL No. 1820 (D. Mass.): Co-Lead Counsel, securing 100% relief for consumers. Judge Joseph L. Tauro: (617) 748-9183;
- *Fraser v. ASUS Computer Int'l.*, No. 3:12-cv-0652 (N.D. Cal.): Co-Lead Counsel in defective product class action, securing all relief sought by class. Judge William Alsup: (415) 522-2020; mediated by Magistrate Judge Jacqueline Scott Corley: (415) 522-2015;
- *In re M3Power Razor Sys. Mktg. & Sales Practices Litig.*, MDL No. 1704 (D. Mass.): Co-Lead Counsel in defective product MDL, resulting in full refunds being made available to class members. Judge Douglas P. Woodlock: (617) 748-9170;
- *Cohen v. Trump*, No. 3:13-cv-2519 (S.D. Cal.): Co-Lead Counsel in certified, nationwide RICO class action. Judge Gonzalo P. Curiel: (619) 557-7667;
- *In re Sony Gaming Networks and Customer Data Security Breach Litig.*, MDL No. 2258 (S.D. Cal.): Co-Lead Counsel, securing landmark settlement that has served as a blueprint for subsequent data breach cases. Judge Anthony J. Battaglia: (619) 557-3446;
- *In re Mattel, Inc. Toy Lead Paint Prods. Liab. Litig.*, MDL No. 1897 (C.D. Cal.): Co-Lead Counsel in MDL concerning one of the world's largest toy recalls. Judge Dale S. Fischer: (213) 894-0435;
- *In re Pet Food Prods. Liab. Litig.*, MDL No. 1850 (D.N.J.): Co-Lead Counsel in MDL concerning pet food contamination. Judge Noel L. Hillman: (856) 757-5057; and
- *In re Checking Account Overdraft Litig.*, MDL No. 2036 (S.D. Fla.): Class Certification Committee in MDL concerning overdraft fees. Judge James Lawrence King: (305) 523-5000.

3. Willingness and ability to immediately commit to time-consuming litigation: I am fully and immediately committed to devote the time necessary to litigate this case to resolution.

4. Willingness and ability to work cooperatively with others: One of the most enjoyable aspects of my practice is the collaboration, cooperation, debate and discussion I engage in with my co-counsel. I am a team player, and in every case I have the privilege of handling, I am committed to working with civility, respect and candor towards my co-counsel as well as the Court and defense counsel. Here, I am honored to have the support of nearly 40 distinguished counsel from throughout the country, including David Boies,² Joe Cotchett, Frank Pitre, Elizabeth Cabraser, Steve Berman, Marc Seltzer, Mark Robinson and three former U.S. Attorneys.

² Noting that both Mr. Boies and I "have the requisite qualifications and experience," the Honorable Larry A. Burns appointed us as Interim Counsel for the cases pending in his District prior to the JPML's transfer order. *See* Order, dated December 2, 2015 in Case No. 3:15-cv-2106 (S.D. Cal.) (Dkt. No. 17).

The Honorable Charles R. Breyer
January 8, 2016
Page 3

Moreover, I know and have tremendous respect for lead defense counsel, Jeffrey Chase and Michael Gallub of Herzfeld & Rubin, P.C., as well as John Nadolenco of Mayer Brown. The Court can be assured that, notwithstanding zealous advocacy, my interaction with defense counsel will occur in a context of mutual respect, courtesy and professionalism. Finally, I have worked successfully with many of the potential Special Masters suggested by various counsel.

5. Access to resources to prosecute this litigation in a timely manner: I take to heart the Court's comments at the December 22, 2015 Status Conference and appreciate the immediacy and urgency that this case warrants. I personally have the time available and, if appointed, will treat this case with the highest priority. Moreover, I am committed, without reservation or delay, to bring to bear RGRD's substantial resources, both human and financial, to this important and historic case.


6. Willingness to serve as lead counsel, a member of a steering committee or both: I have the experience and qualifications necessary to serve a lead role in a case of this magnitude. Nevertheless, my commitment to this case transcends titles or positions, and I hope to have the opportunity to add value in any capacity the Court deems appropriate.

7. Particular category/categories of plaintiffs the applicant wants to represent: I have been retained to represent consumers (both owners and lessees) and, therefore, seek to represent consumers.

8. Other considerations that qualify counsel for leadership position: This MDL will inevitably entail coordination by and between plaintiffs' counsel, prosecutors, and various U.S. and international government agencies. I have ample experience in many cases that required coordination with parallel criminal and regulatory proceedings. Indeed, RGRD's Volkswagen team includes a former U.S. Attorney and Assistant U.S. Attorney, a dually licensed German and California lawyer, and a law firm in Germany with which RGRD shares a ten-year affiliation.³

I have devoted my practice to representing aggrieved classes and have a long, proven track record of success in resolving, through both settlement and trial, some of the nation's largest and most high-profile class actions. To be sure, my firm and I have achieved record-breaking settlements and trial verdicts, and we have successfully resolved difficult cases against foreign (including German) defendants. While I understand the overarching need for efficiency in litigation, I also appreciate the value and benefit that collaboration with other qualified lawyers provides. I would be honored to serve the putative class, the bar, the Court, and indeed the public at large in this extraordinarily consequential case, and I am grateful for the Court's consideration of my application.

Very truly yours,


Paul J. Geller

³ My firm also has a unique track record of improving inadequate class settlements negotiated by others. See, e.g., *In re Rural/Metro Corp. Litig.*, No. 6350-VCL (Del. Ch.) (after objecting to non-monetary settlement, RGRD appointed to take over case and secured nearly \$100 million post-trial judgment) and *In re TD Banknorth Litig.*, No. 2557-VCL (Del. Ch.) (after objecting to \$3 million settlement, RGRD appointed as new Lead Counsel and secured \$50 million recovery for class). Both cases were presided over by Vice Chancellor J. Travis Laster: (302) 255-0510.



Paul J. Geller

Founding Partner

"Paul's dedication and passion in protecting the rights of his clients is truly inspiring."

– Robert Bertisch, Executive Director, Legal Aid Society of Palm Beach County

Office

Boca Raton, Florida
T: (561) 750-3000
F: (561) 750-3364
E: PGeller@rgdlaw.com

Practice Areas

Consumer Fraud
Multi-District Litigation
Securities Class Actions
Shareholder Derivative and Corporate
Governance Litigation

Education

Emory University School of Law, J.D., 1993,
with Highest Distinction

- Editor, *Emory Law Journal*
- Order of the Coif Legal Honor Society
- Awarded multiple American Jurisprudence Book Awards for earning the highest grade in the school in a dozen courses

University of Florida, B.S., 1990, Psychology
▪ Member, University Honors Program

Admissions

Florida

United States Supreme Court

United States Courts of Appeals:
Fifth and Eleventh Circuits

United States District Courts: Northern,
Middle and Southern Districts of Florida;
District of Colorado; Eastern District of
Michigan

Paul J. Geller has obtained substantial recoveries for defrauded consumers and investors and received numerous awards for his work in class action litigation.

Paul J. Geller, Managing Partner of the Boca Raton, Florida office, is a Founding Partner of the Firm, a member of its Executive and Management Committees and head of the Firm's Consumer Practice Group. Mr. Geller's 23 years of litigation experience is broad, and he has handled cases in each of the Firm's practice areas. Notably, before devoting his practice to the representation of consumers and investors, Mr. Geller defended companies in high-stakes class action litigation, providing him an invaluable perspective. Mr. Geller has tried bench and jury trials on both the plaintiffs' and defendants' side, and has argued before numerous state, federal and appellate courts throughout the country.

Mr. Geller's recent successes include a \$265 million recovery against *Massey Energy* and a \$146.25 million recovery against *Duke Energy*. Additionally, Mr. Geller was the lead counsel in *Kehoe v. Fidelity Fed. Bank & Trust*, one of the country's first cases alleging a class-wide privacy violation, settling the case for \$50 million in addition to enhanced privacy protections. More recently, he was one of the lead counsel in the *Sony Gaming Networks Data Breach* litigation, which resulted in significant monetary recovery and other benefits to class members. Mr. Geller was instrumental in resolving a case against *Dannon* for falsely advertising the health benefits of yogurt products (largest food labeling settlement to date), and he was personal counsel to the lead plaintiff in *Stoddard v. Advanta Corp.*, a case that challenged the adequacies of interest rate disclosures by one of the nation's largest credit card companies, in which lead plaintiff William Stoddard wrote, "Mr. Geller gave me a new found respect for class action lawyers."

Rated AV by Martindale-Hubbell (the highest rating available) and twice named one of the nation's top "40 Under 40" by *The National Law Journal*, Mr. Geller has also been named one of "Florida's Top Lawyers" by *Law & Politics* and *South Florida Business Journal*, one of the nation's "Top 500 Lawyers" by *Lawdragon*, one of Florida's "Legal Elite" by *Florida Trend* magazine and one of "Florida's Most Effective Lawyers" by American Law Media's *Daily Business Review*.

Paul J. Geller

Founding Partner

Featured Seminars & Speaking Engagements

- LSI's Automobile Class Actions with Global Ramifications: "Volkswagen Emissions Scandal: So What Kind of Case is This Anyway?" New Orleans, Louisiana; December 2, 2015
- ValueEdge Advisors' 2015 Public Funds Forum: "Playing to Win: Lessons on Teamwork and Leadership," Presentation with Shaquille O'Neal; Laguna Beach, California; September 9, 2015
- Institute for Law & Economic Policy's 19th Annual Symposium: "Multi-Jurisdiction Litigation – State, Federal & Foreign," Co-Panelist with Judges Shira Scheindlin and Leo Strine, Jr.; Naples, Florida; April 12, 2012

Individual & Firm Honors & Awards

- Rated AV by Martindale-Hubbell
- Fellow, Litigation Counsel of America (LCA) Proven Trial Lawyers
- Named one of the nation's Top 500 Lawyers by *Lawdragon*: 2006-2007, 2009-2014
- Named a Litigation Star by *Benchmark Litigation*: 2013
- Selected as one of Florida's top lawyers in Class Action & Mass Torts by *Super Lawyers*: 2007-2016
- Selected as one of the nation's top "40 Under 40" by *The National Law Journal*: 2002, 2005
- Featured as one of Florida's "Legal Elite" in *Florida Trend* magazine: 2003, 2006
- Named one of "Florida's Most Effective Lawyers" in the Class Action category by American Law Media: 2006
- Featured as one of Florida's top lawyers in *South Florida Business Journal*: 2006
- Top Plaintiff Firm, *Benchmark Litigation*: 2010-2016
- Elite Trial Lawyers, *The National Law Journal*: 2014-2015
- Plaintiffs' Hot List, *The National Law Journal*: 2004-2009, 2011, 2013-2014
- Most Feared Plaintiffs' Firm, *Law360*: 2013-2015
- Most Feared Litigation Firms, *BTI Consulting*: 2014-2015
- Top-Tier Plaintiffs' Firm, *The Legal 500*: 2010-2015
- Band 1 Law Firm, *Chambers USA*: 2010-2015
- National Tier 1 Firm, *U.S. News*: 2013-2015

Featured Articles & Case News

- Carlos Harrison, *Where Pit Bulls Fear to Tread: Anywhere Near Attorney Paul Geller*, Florida Super Lawyers Mag. (June 2009), <http://www.superlawyers.com/florida/article/Where-Pit-Bulls-Fear-to-Tread/df6258d4-73ab-4c28-8479-d02d07162180.html>.
- David Wilkening, *Paul Geller: Ultimate Fighter*, Boca Life Mag., Jan. 2007, at 50-51.
- Jim McCormick & Maryann Karinch, *Business Lessons from the Edge: Learn How Extreme Athletes Use Intelligent Risk Taking to Succeed in Business* 189-192 (McGraw-Hill 1st. ed. 2009).
- *HSBC Faces \$2.46 Billion Judgment in Securities Fraud Case*, The New York Times (Oct. 17, 2013), <http://www.nytimes.com/2013/10/18/business/hsbc-is-fined-2-46-billion-in-securities-fraud-case.html>.
- Ed Silverman, *Pfizer to Pay \$400M to Settle Shareholder Suit Over Off-Label Marketing*, The Wall Street Journal (Jan. 27, 2015), <http://blogs.wsj.com/pharmalot/2015/01/27/pfizer-to-pay-400m-to-settle-shareholder-suit-over-off-label-marketing/>.
- Institutional Shareholder Services Top 50 Report, May 2015 (ranking Robbins Geller #1 in both the total amount and number of class action recoveries for 2014).
- C.N.V. Krishnan, et al., *Who are the Top Law Firms? Assessing the Value of Plaintiffs' Law Firms in Merger Litigation*, Am. L. & Econ. Rev. (Fall 2015) (objectively ranking Robbins Geller as the top law firm out of 336 firms that settled M&A cases in Delaware between 2003 and 2012).

Counsel Who Have Filed Cases in This MDL and
Support the Application of Paul J. Geller (*alphabetized by firm name*)

Ben Barnow
BARNOW AND ASSOCIATES, P.C.
1 North LaSalle Street – Suite 4600
Chicago, IL 60602
(312) 621-2000

Jerry E. Martin (Former U.S. Attorney)
BARRETT JOHNSTON MARTIN
& GARRISON, LLC
414 Union Street – Suite 900
Nashville, TN 37219
(615) 244-2202

David Boies
BOIES, SCHILLER & FLEXNER LLP
333 Main Street
Armonk, NY 10504
(914) 749-8200

Jordan Lurie
CAPSTONE LAW APC
1840 Century Park East – Suite 450
Los Angeles, CA 90067
(310) 712-8155

Don Cazayoux (Former U.S. Attorney)
CAZAYOUX EWING LAW FIRM
257 Maximillian Street
Baton Rouge, LA 70802
(225) 650-7400

Michael E. Criden
CRIDEN & LOVE, P.A.
7301 Southwest 57th Court – Suite 515
South Miami, FL 33143
(305) 357-9000

Roland Tellis
BARON & BUDD, P.C.
15910 Ventura Boulevard – Suite 1600
Encino, CA 91436
(818) 839-2320

Timothy G. Blood
BLOOD HURST & O'REARDON, LLP
701 B Street – Suite 1700
San Diego, CA 92101
(619) 338-1100

Andrew S. Friedman
BONNETT, FAIRBOURN, FRIEDMAN
& BALINT, P.C.
2325 East Camelback Road – Suite 300
Phoenix, AZ 85016
(602) 274-1100

James E. Cecchi
CARELLA, BYRNE, CECCHI, OLSTEIN,
BRODY & AGNELLO, P.C.
5 Becker Farm Road
Roseland, NJ 07068
(973) 994-1700

Joseph W. Cotchett
Frank M. Pitre
COTCHETT, PITRE & MCCARTHY, LLP
840 Malcolm Road – Suite 200
Burlingame, CA 94010
(650) 697-6000

Tristram J. Coffin (Former U.S. Attorney)
DOWNS RACHLIN MARTIN PLLC
199 Main Street
Burlington, VT 05402
(802) 846-8640

**Robbins Geller
Rudman & Dowd LLP**

Jeffrey R. Krinsk
FINKELSTEIN & KRINSK LLP
501 West Broadway – Suite 1250
San Diego, CA 92101
(619) 238-1333

Eric H. Gibbs
GIRARD GIBBS LLP
One Kaiser Plaza – Suite 1125
Oakland, CA 94612
(510) 350-9710

Aaron D. Radbil
GREENWALD DAVIDSON RADBIL PLLC
106 East Sixth Street – Suite 913
Austin, TX 78701
(512) 322-3912

Deborah R. Gross
KAUFMAN, COREN & RESS, P.C.
2001 Market Street – Suite 3900
Philadelphia, PA 19103
(215) 735-8700

Robert C. Gilbert
KOPELOWITZ OSTROW FERGUSON
WEISELBERG GILBERT
2525 Ponce de Leon Boulevard – Suite 625
Coral Gables, FL 33134
(305) 384-7270

Alexander M. Schack
LAW OFFICES OF ALEXANDER M. SCHACK
16870 West Bernardo Drive – Suite 400
San Diego, CA 92127
(858) 485-6535

Edward K. O'Brien
O'BRIEN LAW FIRM, PC
One Sundial Avenue – 5th Floor
Manchester, NH 03103
(603) 672-3800

Michael L. Russell
GILBERT RUSSELL MCWHERTER SCOTT
BOBBITT, PLC
341 Cool Springs Boulevard – Suite 230
Franklin, TN 37067
(614) 354-1144

Adam J. Levitt
GRANT & EISENHOFER P.A.
30 North LaSalle Street – Suite 2350
Chicago, IL 60602
(312) 214-0000

Steve W. Berman
HAGENS BERMAN SOBOL SHAPIRO LLP
(supporting PSC application only)
1918 8th Avenue – Suite 3300
Seattle, WA 98101
(206) 623-7292

Lynn Lincoln Sarko
KELLER ROHRBACK LAW OFFICES, L.L.P.
1201 Third Avenue – Suite 3200
Seattle, WA 98101
(206) 623-1900

Martis Alex
LABATON SUCHAROW LLP
140 Broadway
New York, NY 10005
(212) 907-0700

Elizabeth J. Cabraser
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
275 Battery Street – 29th Floor
San Francisco, CA 94111
(415) 956-1000

Peter Prieto
PODHURST ORSECK, P.A.
25 West Flagler Street – Suite 800
Miami, FL 33130
(305) 358-2800

**Robbins Geller
Rudman & Dowd LLP**

Mark P. Robinson, Jr.
ROBINSON CALCAGNIE ROBINSON
SHAPIRO DAVIS, INC.
19 Corporate Plaza Drive
Newport Beach, CA 92660
(949) 720-1288

Stuart Furman
SOUTHERN CALIFORNIA LEGAL
CENTER, INC.
9150 Vista Aleta
Valley Center, CA 92082
(877) 820-3335

Timothy D. Battin
STRAUS & BOIES LLP
4041 University Drive – 5th Floor
Fairfax, VA 22030
(703) 764-8700

John J. Driscoll
THE DRISCOLL FIRM, P.C.
211 North Broadway – 40th Floor
St. Louis, MO 63102
(314) 932-3232

Maria R. Alaimo
VILES & BECKMAN, LLC
6350 Presidential Court – Suite A
Fort Myers, FL 33919
(239) 334-3933

Charles S. “Bucky” Zimmerman
ZIMMERMAN REED, LLP
1100 IDS Center, 80 South 8th Street
Minneapolis, MN 55402
(612) 341-0400

Christopher A. Seeger
SEEGER WEISS LLP
77 Water Street
New York, NY 10005
(212) 584-0700

David S. Stone
STONE & MAGNANINI LLP
100 Connell Drive – Suite 2200
Berkeley Heights, NY 07922
(973) 218-1111

Marc M. Seltzer
SUSMAN GODFREY L.L.P.
1901 Avenue of the Stars – Suite 950
Los Angeles, CA 90067
(310) 789-3100

E. Powell Miller
THE MILLER LAW FIRM, P.C.
950 West University Drive – Suite 300
Rochester, MI 48307
(248) 841-2200

Charles Yezbak
YEZBAK LAW OFFICES
2002 Richard Jones Road – Suite B-200
Nashville, TN 37215
(615) 250-2000